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BBWCDF# 20022031400014-1

Attorney for COUNTRYWIDE HOME LOANS, INC. AS SERVICER FOR VETERANS  
ADMINISTRATION

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

IN RE:	§	CASE NO. 03-54498-LMC-13
	§	
CHARLIE V. LANDY and	§	
PATRICIA A. LANDY,	§	
Debtor	§	CHAPTER 13
	§	
COUNTRYWIDE HOME LOANS, INC.	§	
AS SERVICER FOR VETERANS	§	
ADMINISTRATION,	§	
Movant	§	HEARING DATE: _____
	§	
v.	§	TIME: _____
	§	
CHARLIE V. LANDY and	§	
PATRICIA A. LANDY; and	§	
MARION OLSON, JR., Trustee	§	
Respondents	§	JUDGE LEIF M. CLARK

**MOTION OF COUNTRYWIDE HOME LOANS, INC. AS SERVICER FOR  
VETERANS ADMINISTRATION  
FOR RELIEF FROM STAY AND WAIVER OF THIRTY DAY REQUIREMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, COUNTRYWIDE HOME LOANS, INC. AS SERVICER FOR  
VETERANS ADMINISTRATION, ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST,  
by and through the undersigned attorney, and moves the Court as follows:

1. **WAIVER OF THIRTY DAY REQUIREMENT**

**MOVANT DESIRES TO WAIVE THE REQUIREMENT OF A HEARING WITHIN THIRTY (30) DAYS UNDER §362E AND REQUESTS A HEARING AT THE NEXT AVAILABLE DATE.**

2. **NOTICE**

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.**

3. This Motion is brought pursuant to 11 U.S.C. Section 362(d) and in accordance with Rule 9014 of the Bankruptcy Rules.

4. On or about August 13, 2003, Debtors (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.

5. At the time of filing the Chapter 13 petition, Debtor was indebted to Movant pursuant to a deed of trust note executed on November 18, 1986, in the original amount of FIFTY-ONE THOUSAND SEVEN HUNDRED DOLLARS AND ZERO CENTS (\$51,700.00) with interest thereon at the rate of 10.500% per annum. A true and correct copy of the deed of trust note is attached hereto as Exhibit "A".

6. The obligation of Debtor to pay the indebtedness is secured by a deed of trust dated November 18, 1986 on real estate with all improvements known as:

**LOT 11, BLOCK 24, LAKESIDE SUBDIVISON, UNIT XI, BEXAR COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME 8200, PAGES 176-177, DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.**

A true and correct copy of the deed of trust is attached hereto as Exhibit "B".

7. Prior to the filing of the petition, Debtor was indebted to Movant according to the terms and conditions of the note and deed of trust. Up to and including the date of the filing of the petition, the indebtedness was as follows:

Unpaid principal - \$54,584.04  
Pre-petition arrearage - \$3,891.85

Debtor has failed to maintain current the post-petition payments due under the note and is presently in arrears for 3 payments through and including the April 1, 2004 payment. Movant has no knowledge of any other secured claims against the property. Creditor believes that on the date debtor filed the petition, the collateral securing the indebtedness owed to Movant equalled or exceeded in value the amount of the debt. Movant would assert that in the absence of a valuation hearing, Movant is secured at least to the extent of \$54,584.04.

8. Debtor has failed to make payments of principal or interest to Movant and has failed to pay taxes or insurance on the property, all resulting in loss and harm to Movant.

9. In accordance with the terms of the note and deed of trust, Debtor is liable for costs and attorneys fees incurred by Movant. Movant would allege that it is entitled to reasonable attorneys fees as to the filing of this Motion for Relief from Stay.

10. By reason of the foregoing, cause exists for vacating the stay so Movant may proceed to foreclose in accordance with its deed of trust.

11. Debtor has failed to provide adequate protection to Movant which constitutes cause to vacate the automatic stay of 11 U.S.C. Section 362(a).

12. In the alternative, there is no realizable equity in the property which also constitutes cause under 11 U.S.C. §362(d) for lifting the stay. The outstanding indebtedness to Movant is \$54,292.09 principal plus accrued interest, late charges, attorneys fees and costs as provided in the note and deed of trust.

13. The provision of Rule 4001(a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, that Movant be afforded adequate protection including, but not limited to, having all post-petition payments brought current and being reimbursed for its reasonable attorney's fees and expenses. Movant further prays that the Court waive the provision of Rule 4001 (A) (3) and that COUNTRYWIDE HOME LOANS, INC. AS SERVICER FOR VETERANS ADMINISTRATION be permitted to immediately enforce and implement any order granting relief from the automatic stay and that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT BURKE WILSON  
CASTLE DAFFIN & FRAPPIER, L.L.P.

BY: /s/ JEFFREY FLEMING  
TBA NO. 24034442  
/s/ YVONNE KNESEK  
TBA NO. 11591800  
/s/ WALTER THURMOND  
TBA NO. 20012500  
1900 St. James Place, Suite 500  
Houston, Texas 77056  
Telephone: (713) 621-8673  
Facsimile: (713) 621-8583  
E-mail: WDECF@BBWCDF.COM  
ATTORNEYS FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Relief from Stay was served on the date that the Motion for Relief from Stay was filed electronically. Service was accomplished by the method and to the following as indicated:

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/s/ JEFFREY FLEMING  
/s/ YVONNE KNESEK  
/s/ WALTER THURMOND  
ATTORNEYS FOR MOVANT

BY REGULAR FIRST CLASS MAIL, POSTAGE PREPAID:

Debtors:

CHARLIE V. LANDY  
PATRICIA A. LANDY  
5911 AUTUMN LAKE  
SAN ANTONIO, TX 78222

Debtor's

Attorney: CHARLES J. BONDURANT  
11825 IH 10 WEST, #202  
SAN ANTONIO, TX 78230

Parties in Interest:

DEPT. OF HOUSING AND URBAN DEV. ALLIED INTERSTATE  
P.O. BOX 530284  
ATLANTA, GA 303530284

Parties Requesting Notice:

RYAN E. ROGERS  
1600 W. 7TH STREET  
SUITE 500  
FORT WORTH, TX 76102

Ten Largest Unsecured Creditors:

AMERICAN MEDICAL RESPONSE  
P.O. BOX 847343  
DALLAS, TX 75284

FIRST REVENUE ASSURANCE  
P.O. BOX 34393  
SEATTLE, WA 981241393

FMA ALLIANCE, LTD.  
1811 NORTH FREEWAY #900  
HOUSTON, TX 77060

INTERNAL REVENUE SERVICE  
300 E. 8TH STREET  
STOP 5026AUS  
AUSTIN, TX 78701

NCO FINANCIAL SYSTEMS, INC.  
P.O. BOX 41417  
DEPT. 99  
PHILADELPHIA, PA 19101

NORTHLAND GROUP, INC.  
P.O. BOX 390846  
EDINA, MN 55439

PENN CREDIT CORPORATION  
P.O. BOX 988  
HARRISBURG, TX 171080988

PROVIDIAN VISA CARD  
P.O. BOX 9539  
MANCHESTER, NH 031089539

SEARS  
86 ANNEX  
ATLANTA, GA 303860001

TRANSWORLD SYSTEMS, INC.  
5880 COMMERCE BOULEVARD  
ROHNERT PARK, CA 94928

**TRUSTEE: BY ELECTRONIC NOTICE**  
MARION OLSON, JR.

1020 N. E. LOOP 410, STE 800  
SAN ANTONIO, TX 78209